

JOURNAL OF THE SENATE

EIGHTY-EIGHTH SESSION

TWENTY-THIRD DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, February 14, 2013

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Dan Bader, followed by the Pledge of Allegiance led by Senate page Chance Freese.

Roll Call: All members present except Sens. Rave and Van Gerpen who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-second day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared SB 126 and 127 and finds the same correctly enrolled.

Respectfully submitted,
Corey Brown, Chair

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 114 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 206 and returns the same with the recommendation that said bill do pass and be placed on the consent calendar.

Respectfully submitted,
Craig Tieszen, Chair

Also MR. PRESIDENT:

The Committee on Commerce and Energy respectfully reports that it has had under consideration HB 1035 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Commerce and Energy respectfully reports that it has had under consideration HB 1034 and returns the same with the recommendation that said bill do pass and be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Commerce and Energy respectfully reports that it has had under consideration SB 195 and returns the same with the recommendation that said bill be amended as follows:

195ja

On the printed bill, delete everything after the enacting clause and insert:

"Section 1. Terms used in this Act mean:

- (1) "Construction date," the first date earth is excavated for the purpose of constructing a project;
- (2) "Completed the project" or "completion of the project," the first date when the project is commercially generating electricity for sale;
- (3) "Department," the Department of Revenue;
- (4) "Person," any individual, firm, copartnership, joint venture, association, cooperative, limited liability company, limited liability partnership, corporation, estate, trust, business trust, receiver, or any group or combination acting as a unit;
- (5) "Project," the construction of a wind energy facility at a single site. The project shall consist of a single project rather than an ongoing, systematic process of upgrading, retooling, or modernizing an existing wind energy facility;
- (6) "Project cost," the amount paid by the project owner in money, credits, property, or other money's worth for a project. Project costs include the cost of the blades, wind turbine generators, towers, bases, power collection systems, electric interconnection systems, substations, and amounts paid to contractors. Project costs do not include land acquisition costs, easement costs, environmental impact statement costs, wind study costs, crop damage payments, consulting services, insurance, administrative costs, employee costs, legal fees, or any costs not paid by the project owner;
- (7) "Secretary," the secretary of the Department of Revenue;
- (8) "Wind energy facility," any new facility or facility expansion that:
 - (a) Consists of a commonly managed integrated system of towers, wind turbine generators with blades, power collection systems, and electric interconnection systems, that converts wind movement into electricity, and is subject to the tax imposed by §§ 10-35-18 and 10-35-19; and
 - (b) The construction of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B.

Section 2. The purpose of this Act is to provide a mechanism for an incentive payment to a person that constructs a wind energy facility. To receive an incentive payment as provided by this Act, the person must timely file an application as required by section 3 of this Act, the person must receive a permit from the department pursuant to section 4 of this Act, the person must timely file the affidavit of incentive payment as required by section 5 of this Act, and the person shall comply with the provisions of this Act to qualify for the incentive payment.

No project with a construction date before April 1, 2013, may receive an incentive payment as provided by this Act.

Section 3. Before any person receives any incentive payment as provided in this Act, the person shall file an application with the department. The application may be filed no sooner than ninety days before the construction date, or no later than ninety days after the construction date. No person may receive any incentive payment as provided by this Act if the application is not timely filed with the department.

The application shall include the following information:

- (1) The project owner's name and contact information;
- (2) The general description of the project;
- (3) The construction date of the project;
- (4) The projected date for completion of the project;
- (5) The projected megawatt production of the project;
- (6) The number of completed wind towers to be included in the project;
- (7) The proposed nameplate capacity for each wind turbine generator in the project;
- (8) The estimated project costs;
- (9) The location of the project;
- (10) The legal description of the project location;
- (11) A list of the contractors and subcontractors that will perform work on the project; and
- (12) Any other information that the department may require.

The application shall be on a form prescribed by the secretary. The application shall be signed by the project owner under penalty of perjury, and signed under oath before a notary public. No application may include more than one project.

Section 4. Upon approval of the application, the secretary shall issue a permit entitling the person to submit an affidavit for incentive payment as provided by section 5 of this Act. The permit and incentive payment are not assignable or transferable except as collateral or security pursuant to chapter 57A-9. However, the secretary may permit the assignment or transfer of a permit and incentive payment if the initial permit holder entity reorganizes into a new entity, if the new entity and the initial entity share common ownership, and the reorganization was completed solely for a legitimate business purpose. The new entity shall file with the department an amended application within sixty days of the reorganization.

1 Section 5. Any person that has timely filed the application and is holding a permit issued by
2 the department, and has completed the project, shall file an affidavit for incentive payment with
3 the department.

4 The affidavit for incentive payment shall contain the following information:

- 5 (1) The project owner's name and contact information;
- 6 (2) The general description of the project;
- 7 (3) The date of completion of the project;
- 8 (4) The final megawatt production of the project;
- 9 (5) The number of completed wind towers in the project;
- 10 (6) The final nameplate capacity for each wind turbine generator in the project;
- 11 (7) The final project costs;
- 12 (8) The amount of South Dakota sales tax, use tax, and contractors excise tax paid for
13 the construction of the project;
- 14 (9) The location of the project;
- 15 (10) The legal description of the project location;
- 16 (11) A list of the contractors and subcontractors that performed work on the project; and
- 17 (12) Any other information that the department may require.

18 The affidavit for incentive payment shall be on a form prescribed by the secretary. The
19 affidavit for incentive payment shall be signed by the project owner under penalty of perjury,
20 and signed under oath before a notary public. No affidavit for incentive payment may include
21 more than one project.

22 Section 6. The affidavit for incentive payment as required by section 5 of this Act shall be
23 filed no later than six months after the completion of the project. If the affidavit for incentive
24 payment is not timely filed, the person is ineligible for any incentive payment provided by this
25 Act. If the affidavit for incentive payment contains any false or fraudulent information, the
26 person is ineligible for any incentive payment provided by this Act.

No project costs that occur after three years from the construction date are eligible to be included in the final project cost determination for any incentive payment provided by this Act.

Section 7. After the timely receipt of a completed affidavit for incentive payment, the department shall provide an incentive payment to the project owner based upon the final project costs. The amount of the incentive payment is based on the amount of the final project costs as follows:

- (1) For a project with a final project cost of five million dollars or more but less than seven million five hundred thousand dollars, there shall be an incentive payment of one hundred thousand dollars;
- (2) For a project with a final project cost of seven million five hundred thousand dollars or more but less than ten million dollars, there shall be an incentive payment of one hundred fifty thousand dollars;
- (3) For a project with a final project cost of ten million dollars or more but less than twelve million five hundred thousand dollars, there shall be an incentive payment of two hundred thousand dollars;
- (4) For a project with a final project cost of twelve million five hundred thousand dollars or more but less than fifteen million dollars, there shall be an incentive payment of two hundred fifty thousand dollars;
- (5) For a project with a final project cost of fifteen million dollars or more but less than seventeen million five hundred thousand dollars, there shall be an incentive payment of three hundred thousand dollars;
- (6) For a project with a final project cost of seventeen million five hundred thousand dollars or more but less than twenty million dollars, there shall be an incentive payment of three hundred fifty thousand dollars;
- (7) For a project with a final project cost of twenty million dollars or more but less than twenty-five million dollars, there shall be an incentive payment of four hundred thousand dollars;
- (8) For a project with a final project cost of twenty-five million dollars or more but less than thirty million dollars, there shall be an incentive payment of five hundred thousand dollars;
- (9) For a project with a final project cost of thirty million dollars or more but less than thirty-five million dollars, there shall be an incentive payment of six hundred thousand dollars;
- (10) For a project with a final project cost of thirty-five million dollars or more but less than forty million dollars, there shall be an incentive payment of seven hundred thousand dollars;

1 (11) For a project with a final project cost of forty million dollars or more but less than
2 fifty million dollars, there shall be an incentive payment of eight hundred thousand
3 dollars;

4 (12) For a project with a final project cost of fifty million dollars or more but less than
5 sixty million dollars, there shall be an incentive payment of one million dollars;

6 (13) For a project with a final project cost of sixty million dollars or more but less than
7 seventy million dollars, there shall be an incentive payment of one million two
8 hundred thousand dollars;

9 (14) For a project with a final project cost of seventy million dollars or more but less than
10 eighty million dollars, there shall be an incentive payment of one million four
11 hundred thousand dollars;

12 (15) For a project with a final project cost of eighty million dollars or more but less than
13 ninety million dollars, there shall be an incentive payment of one million six hundred
14 thousand dollars;

15 (16) For a project with a final project cost of ninety million dollars or more but less than
16 one hundred million dollars, there shall be an incentive payment of one million eight
17 hundred thousand dollars;

18 (17) For a project with a final project cost of one hundred million dollars or more, there
19 shall be an incentive payment of two percent of the final project costs.

20 No incentive payment provided by this section may be in excess of the South Dakota sales
21 tax, use tax, and contractor's excise tax paid by the project owner on project costs for the
22 construction of the project. The department shall tender the incentive payment by electronic
23 funds transfer.

24 Section 8. The department is hereby granted the continuing appropriation authority to make
25 the incentive payments provided for by this Act.

26 Section 9. Any person receiving an incentive payment for a project pursuant to the
27 provisions of this Act may not receive any other refund, incentive payment, lower tax rate,
28 payment, or other incentive from the department for that project.

29 Section 10. Any person who files a false or fraudulent application pursuant to section 3 of
30 this Act is guilty of a Class 1 misdemeanor. Any person who files a false or fraudulent affidavit
31 for incentive payment pursuant to section 5 of this Act is guilty of a Class 6 felony.

32 Section 11. If the project is located on land that is included within the agreement area of a
33 tax collection agreement entered into by the state and an Indian tribe pursuant to chapter
34 10-12A, the department is only obligated to pay a percentage of the incentive payment as
35 required by this Act equal to the percentage of funds that the department retains pursuant to the
36 terms of the tax collection agreement.

Section 12. The name of any person that receives an incentive payment as provided by this Act and the amount of the incentive payment is public information and shall be available and open to public inspection as provided in § 1-27-1.

Section 13. Any person aggrieved by the denial in whole or in part of an incentive payment claimed under the provisions of this Act, may within thirty days after service of the notice of such denial by the secretary, demand and is entitled to a hearing, upon notice, before the secretary. The hearing shall be conducted pursuant to chapter 1-26.

Section 14. The secretary may promulgate rules, pursuant to chapter 1-26, concerning the procedures for applying for the incentive payment and the requirements necessary to qualify for the incentive payment.

Section 15. That § 10-35-22 be amended to read as follows:

10-35-22. Any company requiring transmission lines or wind farm collector systems or both in South Dakota for a wind farm or a power generation facility as described in § 10-35-1.3, is eligible for a partial rebate of the tax paid under § 10-35-19. The company shall apply for the rebate on forms prescribed by the secretary. The total amount of tax rebated shall be no more than fifty percent of the cost of the transmission lines and wind farm collector systems in South Dakota.

The maximum rebate any company may receive in one year is ninety percent of the tax paid under § 10-35-19 for the first five years and fifty percent of the tax paid under § 10-35-19 for the next five years. The secretary shall determine when the wind farm is commercially operational. No wind farm may receive a rebate under this section after this ten year period.

The secretary shall rebate the tax from the wind energy tax fund prior to the distribution of any money as provided in § 10-35-21. The secretary may provide a tax credit, in lieu of full payment of the gross receipts tax, of up to eighty percent of the transmission rebate value that has been approved by the secretary. Any revenue in the wind energy tax fund after the rebates are paid shall be deposited in the property tax reduction fund.

No company may receive any rebate pursuant to this section if the company's wind farm first generates electricity after April 1, 2013. No company may receive any rebate pursuant to this section if the company receives the incentive payment as provided by section 7 of this Act.

Section 16. That § 10-35-21 be amended to read as follows:

10-35-21. The secretary shall distribute all of the tax deposited in the wind energy tax fund pursuant to § 10-35-18 and twenty percent of the tax deposited in the wind energy tax fund pursuant to § 10-35-19 to the county treasurer where the wind farm is located. If the wind energy tax fund contains less than twenty percent of the gross receipts tax from § 10-35-19, due to the transmission line rebate under § 10-35-22, the secretary shall distribute the remainder of funds after the rebate to the county treasurer where the wind farm is located. If a wind farm is located in more than one county, each county shall receive the same percentage of the tax as the percentage of wind towers in the wind farm located in the county. Upon receipt of the taxes, the county auditor shall apportion the tax among ~~all taxing jurisdictions~~ the school districts, the

1 county, and the organized townships where a wind tower is located. The tax shall be
2 ~~apportioned in the same manner as agricultural real property taxes would have been apportioned~~
3 ~~between the taxing jurisdictions by the county auditor by allocating fifty percent of the tax to~~
4 the school district where each wind tower is located, fifteen percent to the organized township
5 where each wind tower is located, and thirty-five percent to the county. If a wind tower is
6 located in a township that is not organized, the unorganized township's share of the tax for that
7 wind tower is allocated to the county. The secretary shall distribute the money to the counties
8 on or before the first day of May.

9 Section 17. Whereas, this Act is necessary for the support of the state government and its
10 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
11 full force and effect from and after its passage and approval."

12 195jta

13 On page 1, line 3, of the printed bill, after "farms" insert ", to provide a penalty for filing
14 a false affidavit".

15 And that as so amended said bill do pass.

16 Respectfully submitted,
17 Ried S. Holien, Chair

18 Also MR. PRESIDENT:

19 The Committee on Agriculture and Natural Resources respectfully reports that it has had
20 under consideration SB 238 and returns the same with the recommendation that said bill do
21 pass.

22 Also MR. PRESIDENT:

23 The Committee on Agriculture and Natural Resources respectfully reports that it has had
24 under consideration SB 183 and returns the same with the recommendation that said bill be
25 amended as follows:

26 183ta

27 On page 1 of the printed bill, delete lines 4 to 8, inclusive.

28 On page 1, line 11, after "41-9-2," insert "or who travels across private lands while in
29 possession of a hunting license and hunting firearm.".

183tb

Delete the previously adopted amendment (183ta).

On page 1 of the printed bill, delete lines 4 to 8, inclusive, and insert:

"Section 1. That § 41-9-1 be amended to read as follows:

41-9-1. Except as provided in § 41-9-2, no person may fish, hunt, or trap upon any private land without permission from the owner or lessee of the land. Under the terms of this section, a person in possession of a valid hunting license and a firearm is deemed to be hunting if the person is traveling by foot or motor vehicle upon or across private land in an attempt to locate, flush, drive, pursue, or take game or is en route to a hunting destination. A violation of this section is a Class 2 misdemeanor and is subject to § 41-9-8."

On page 1, line 12, delete "a period of not less than one and not more than three years" and insert "two years".

And that as so amended said bill do pass.

Also MR. PRESIDENT:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration the nomination of Wanda Blair of Vale, South Dakota, to the South Dakota Brand Board and returns the same with the recommendation that the Senate advise and consent to the confirmation of said reappointment.

Also MR. PRESIDENT:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration the nomination of Lyla Hutchison of Wounded Knee, South Dakota, to the South Dakota Brand Board and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

Also MR. PRESIDENT:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration SB 178 which was tabled.

1 Also MR. PRESIDENT:

2 The Committee on Agriculture and Natural Resources respectfully reports that it has had
3 under consideration SB 192 which was deferred to the 41st Legislative Day.

4 Respectfully submitted,
5 Shantel Krebs, Chair

6 **MESSAGES FROM THE HOUSE**

7 MR. PRESIDENT:

8 I have the honor to transmit herewith HB 1135, 1189, and 1249 which have passed the
9 House and your favorable consideration is respectfully requested.

10 Also MR. PRESIDENT:

11 I have the honor to return herewith SB 126 and 127 which have passed the House without
12 change.

13 Also MR. PRESIDENT:

14 I have the honor to transmit herewith HCR 1005 which has been adopted by the House and
15 your concurrence is respectfully requested.

16 Respectfully,
17 Arlene Kvislen, Chief Clerk

18 **MOTIONS AND RESOLUTIONS**

19 HCR 1005: A CONCURRENT RESOLUTION, Recognizing November 2013 as COPD
20 Awareness Month.

21 Was read the first time, the President waived the referral to committee, and placed
22 HCR 1005 on the calendar of Friday, February 15, the 24th legislative day.

23 Yesterday, Sen. Buhl announced her intention to reconsider the vote by which SB 215 lost.

24 Sen. Buhl moved that the Senate do now reconsider the vote by which SB 215 lost.

1 The question being on Sen. Buhl's motion to reconsider the vote by which SB 215 lost.

2 And the roll being called:

3 Yeas 17, Nays 16, Excused 2, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Buhl; Frerichs; Holien; Jones; Kirkeby; Krebs; Lucas; Maher;
6 Rampelberg; Soholt; Sutton; Tidemann; Tieszen; Welke

7 Nays:

8 Brown; Ewing; Heineman (Phyllis); Hunhoff (Jean); Jensen; Johnston; Lederman; Monroe;
9 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rhoden; Vehle; White

10 Excused:

11 Rave; Van Gerpen

12 So the motion not having received an affirmative vote of a majority of the members-elect,
13 the President declared the motion lost.

14 HCR 1006: A CONCURRENT RESOLUTION, Petitioning the President of the United
15 States and the Department of State to authorize the Keystone XL Pipeline.

16 Sen. Lederman moved that the Senate do concur in HCR 1006 as found on page 339 of the
17 House Journal.

18 The question being on Sen. Lederman's motion that HCR 1006 be concurred in.

19 And the roll being called:

20 Yeas 30, Nays 3, Excused 2, Absent 0

21 Yeas:

22 Adelstein; Begalka; Brown; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean);
23 Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Maher; Monroe; Novstrup (Al); Olson
24 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rhoden; Soholt; Sutton; Tidemann;
25 Tieszen; Vehle; Welke; White

26 Nays:

27 Bradford; Buhl; Lucas

28 Excused:

29 Rave; Van Gerpen

1 So the motion having received an affirmative vote of a majority of the members-elect, the
2 President declared the motion carried and HCR 1006 was concurred in.

3 Sen. Olson moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
4 Friday, February 15, the 24th legislative day.

5 Which motion prevailed.

6 Sen. Brown moved that SB 217 be referred from the Committee on Taxation to the
7 Committee on Appropriations.

8 Which motion prevailed.

9 Sen. Olson moved that SB 169 be placed to follow 186 on today's calendar.

10 Which motion prevailed.

11 Sen. Olson moved that SB 44 be deferred to Friday, February 15, the 24th legislative day.

12 Which motion prevailed.

13 **CONSIDERATION OF REPORTS OF COMMITTEES**

14 Sen. Olson moved that the reports of the Standing Committees on

15 Taxation on SB 199 as found on page 389 of the Senate Journal; also

16 Transportation on SB 143 as found on page 388 of the Senate Journal be adopted.

17 Which motion prevailed.

18 Sen. Tidemann moved that the words "without recommendation" be stricken from the
19 report of the Committee on Transportation on SB 143, that the words "do pass" be inserted, and
20 that the bill be placed on the calendar of Friday, February 15, the 24th legislative day.

21 The question being on Sen. Tidemann's motion that the words "without recommendation"
22 be stricken from the report of the Committee on Transportation on SB 143, that the words "do
23 pass" be inserted, and that the bill be placed on the calendar of Friday, February 15, the 24th
24 legislative day.

1 And the roll being called:

2 Yeas 33, Nays 0, Excused 2, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
6 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rhoden; Soholt;
7 Sutton; Tidemann; Tieszen; Vehle; Welke; White

8 Excused:

9 Rave; Van Gerpen

10 So the motion having received an affirmative vote of a majority of the members-elect, the
11 President declared the motion carried, and SB 143 was so placed.

12 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

13 HB 1135: FOR AN ACT ENTITLED, An Act to regulate access to and use of public
14 waters on public and private property.

15 Was read the first time and referred to the Committee on State Affairs.

16 HB 1189: FOR AN ACT ENTITLED, An Act to permit townships to levy a capital
17 improvement property tax for highways, secondary roads, bridges, and culverts.

18 Was read the first time and referred to the Committee on Taxation.

19 HB 1249: FOR AN ACT ENTITLED, An Act to provide salary assistance to counties for
20 veterans service officers.

21 Was read the first time and referred to the Committee on Appropriations.

22 **CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENT**

23 The Senate proceeded to the consideration of the executive appointment of James E.
24 Putnam of Douglas County, Armour, South Dakota, to the South Dakota Lottery Commission.

25 The question being "Does the Senate advise and consent to the executive appointment of
26 James E. Putnam pursuant to the executive message as found on page 320 of the Senate
27 Journal?"

1 And the roll being called:

2 Yeas 33, Nays 0, Excused 2, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
6 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rhoden; Soholt;
7 Sutton; Tidemann; Tieszen; Vehle; Welke; White

8 Excused:

9 Rave; Van Gerpen

10 So the question having received an affirmative vote of a majority of the members-elect, the
11 President declared the appointment confirmed.

12 **SECOND READING OF CONSENT CALENDAR ITEMS**

13 HB 1106: FOR AN ACT ENTITLED, An Act to revise certain Limited Liability Company
14 statutes.

15 Was read the second time.

16 The question being "Shall HB 1106 pass as amended?"

17 And the roll being called:

18 Yeas 33, Nays 0, Excused 2, Absent 0

19 Yeas:

20 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
21 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
22 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rhoden; Soholt;
23 Sutton; Tidemann; Tieszen; Vehle; Welke; White

24 Excused:

25 Rave; Van Gerpen

26 So the bill having received an affirmative vote of a majority of the members-elect, the
27 President declared the bill passed and the title was agreed to.

28 HB 1023: FOR AN ACT ENTITLED, An Act to revise certain rules relating to the
29 Department of Human Services Medicaid waiver programs.

1 Was read the second time.

2 The question being "Shall HB 1023 pass?"

3 And the roll being called:

4 Yeas 33, Nays 0, Excused 2, Absent 0

5 Yeas:

6 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
7 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
8 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rhoden; Soholt;
9 Sutton; Tidemann; Tieszen; Vehle; Welke; White

10 Excused:

11 Rave; Van Gerpen

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 President declared the bill passed and the title was agreed to.

14 HB 1169: FOR AN ACT ENTITLED, An Act to amend the provisions regarding the
15 reimbursement of a physical exam of a victim after a rape.

16 Was read the second time.

17 The question being "Shall HB 1169 pass?"

18 And the roll being called:

19 Yeas 33, Nays 0, Excused 2, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
22 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
23 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rhoden; Soholt;
24 Sutton; Tidemann; Tieszen; Vehle; Welke; White

25 Excused:

26 Rave; Van Gerpen

27 So the bill having received an affirmative vote of a majority of the members-elect, the
28 President declared the bill passed and the title was agreed to.

1 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

2 SB 31: FOR AN ACT ENTITLED, An Act to make an appropriation for the construction
3 of a maintenance building and to authorize the razing of three buildings at the STAR Academy
4 in Custer County.

5 Was read the second time.

6 The question being "Shall SB 31 pass as amended?"

7 And the roll being called:

8 Yeas 33, Nays 0, Excused 2, Absent 0

9 Yeas:

10 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
11 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
12 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rhoden; Soholt;
13 Sutton; Tidemann; Tieszen; Vehle; Welke; White

14 Excused:

15 Rave; Van Gerpen

16 So the bill having received an affirmative vote of a two-thirds majority of the members-
17 elect, the President declared the bill passed and the title was agreed to.

18 SB 42: FOR AN ACT ENTITLED, An Act to update references to federal regulations
19 regarding safe transport of hazardous materials.

20 Was read the second time.

21 The question being "Shall SB 42 pass?"

22 And the roll being called:

23 Yeas 29, Nays 4, Excused 2, Absent 0

24 Yeas:

25 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Heineman (Phyllis); Holien; Hunhoff
26 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Novstrup (Al); Olson
27 (Russell); Otten (Ernie); Peters; Rempelberg; Rhoden; Soholt; Sutton; Tidemann; Tieszen;
28 Vehle; Welke; White

1 Nays:

2 Ewing; Maher; Monroe; Omdahl

3 Excused:

4 Rave; Van Gerpen

5 So the bill having received an affirmative vote of a majority of the members-elect, the
6 President declared the bill passed and the title was agreed to.

7 SB 186: FOR AN ACT ENTITLED, An Act to establish Good Earth State Park at Blood
8 Run in Lincoln County.

9 Was read the second time.

10 The question being "Shall SB 186 pass?"

11 And the roll being called:

12 Yeas 31, Nays 2, Excused 2, Absent 0

13 Yeas:

14 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
15 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Monroe; Olson
16 (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rhoden; Soholt; Sutton; Tidemann;
17 Tieszen; Vehle; Welke; White

18 Nays:

19 Maher; Novstrup (Al)

20 Excused:

21 Rave; Van Gerpen

22 So the bill having received an affirmative vote of a majority of the members-elect, the
23 President declared the bill passed and the title was agreed to.

24 SB 169: FOR AN ACT ENTITLED, An Act to provide for the assignment of insurance
25 payments for ambulance service providers.

26 Having had its second reading was up for consideration and final passage.

27 The question now being on Sen. Brown's pending motion to amend SB 169 as found on
28 page 382 of the Senate Journal.

1 169fa

2 Sen. Adelstein moved as a substitute motion that SB 169 be amended as follows:

3 On page 1, line 12, of the printed bill, delete everything after "." and insert "However, if
4 the ambulance service is offered and rejects participating status, it shall hold the insured person
5 harmless for any balance of the benefits not paid by the insurance company, health maintenance
6 organization, preferred provider organization, individual practice association, or nonprofit
7 hospital service corporation."

8 On page 1, delete lines 13 and 14.

9 On page 2, delete line 1.

10 Which motion lost.

11 Sen. Holien requested a roll call vote on Sen. Brown's pending motion to amend SB 169.

12 Which request was supported.

13 The question now being on Sen. Brown's pending motion to amend SB 169 as found on
14 page 382 of the Senate Journal.

15 And the roll being called:

16 Yeas 19, Nays 14, Excused 2, Absent 0

17 Yeas:

18 Bradford; Brown; Buhl; Hunhoff (Jean); Johnston; Jones; Lederman; Lucas; Maher; Monroe;
19 Olson (Russell); Otten (Ernie); Peters; Rampelberg; Rhoden; Soholt; Sutton; Tidemann; White

20 Nays:

21 Adelstein; Begalka; Ewing; Frerichs; Heineman (Phyllis); Holien; Jensen; Kirkeby; Krebs;
22 Novstrup (Al); Omdahl; Tieszen; Vehle; Welke

23 Excused:

24 Rave; Van Gerpen

25 So the motion having received an affirmative vote of a majority of the members-elect, the
26 President declared the motion carried.

1 The question now being "Shall SB 169 pass as amended?"

2 And the roll being called:

3 Yeas 7, Nays 26, Excused 2, Absent 0

4 Yeas:

5 Brown; Johnston; Lederman; Maher; Monroe; Olson (Russell); Rhoden

6 Nays:

7 Adelstein; Begalka; Bradford; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
8 (Jean); Jensen; Jones; Kirkeby; Krebs; Lucas; Novstrup (Al); Omdahl; Otten (Ernie); Peters;
9 Rampelberg; Soholt; Sutton; Tidemann; Tieszen; Vehle; Welke; White

10 Excused:

11 Rave; Van Gerpen

12 So the bill not having received an affirmative vote of a majority of the members-elect, the
13 President declared the bill lost.

14 Sen. Brown moved that HB 1019, 1020, 1091, 1011, 1071, 1072, 1073, 1074, 1125, 1127,
15 and 1070 be deferred to Friday, February 15, the 24th legislative day.

16 Which motion prevailed.

17 **SIGNING OF BILLS**

18 The President publicly read the title to

19 SB 126: FOR AN ACT ENTITLED, An Act to revise the provisions that authorize
20 townships to combine the offices of the clerk and the treasurer.

21 SB 127: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the
22 health and educational facilities authority.

23 And signed the same in the presence of the Senate.

24 Sen. Otten moved that the Senate do now adjourn, which motion prevailed and at 3:46 p.m.
25 the Senate adjourned.

26 Jeannette Schipper, Secretary